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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,404	04/29/2005	Fiorentino De Simone	2507-1072	2208

466 7590 01/11/2006

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EXAMINER
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BOECKMANN, JASON J

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/533,404	DE SIMONE, FIORENTINO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jason J. Boeckmann	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12/15/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 18-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 18-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/29/2005</u>   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

Claims 3-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/15/2005.

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Letter E in figure 10 D is not referenced in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because the rotating switch of claim 20, line 4 is not shown in figures 10A to 12B. It is unclear as to where the rotating switch (11) is located on the soap-dispensing device. Corrected drawing sheets in compliance with

37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "12" has been used to designate both the hopper and the hopper tube. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 19 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 19 is an intended use claim and therefore does not further limit the preceding claim.

Claim 28 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim may not depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim 28 has not been further treated on the merits.

### ***Claim Rejections - 35 USC § 112***

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Examiner suggests some corrections for the errors listed below:

- I. Claim 1, line 6, a comma should be inserted after the word "like."
- II. Claim 21, line 3, the word "the" should be inserted after "both."

- III. Claim 21, line 4, the word "the" after the "of" should be removed.
- IV. Claim 23, line 2, the word "the" should be inserted after "when."
- V. Claim 23, line 3, the word "the" should be inserted after "through."
- VI. Claim 23, line 4, the phrase "so that a foam soaping the user is streaming of the shower," should be modified to say something like "so that a soap foam is streaming out of the shower."

Claim 1 recites the limitation "shower head" in line 1 and line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the water" in line 3. There is insufficient antecedent basis for this limitation in the claim

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to where the "predetermined amount of liquid soap," from line 4 is delivered.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim 21 recites the limitation "soaping position" in line 7. There is insufficient antecedent basis for this limitation in the claim

Claim 21 recites the limitation "rinsing position" in line 8. There is insufficient antecedent basis for this limitation in the claim

Claim 24 recites the limitation "length of tube" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. In lines 14-17, it is unclear as to what is meant by the phrase beginning with the word "so" and ending in with the word "use." Examiner is not sure if the phrase mentioned should be included in the claim language.

Regarding claim 25, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 25 recites the limitation "connecting pipe" in lines 2-3 and line 4. There is insufficient antecedent basis for this limitation in the claim

Claim 26 recites the limitation "water outlet pipe" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 26 recites the limitation "lower portion" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 26 recites the limitation "recycling water" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 26 recites the limitation "detergent product" in lines 11-12. There is insufficient antecedent basis for this limitation in the claim.

Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

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regards as the invention. It is unclear as to what is meant by the phrase beginning with "provide," line 2 and ending with "increased," line 4. Examiner does not understand how the soaped water can be recycled if the dilution of the soap is increased. Also, it is not clear as to what the phrase "such pipe "tapping" the partial amount of water mentioned above," means.

Claim 27 recites the limitation "tapping orifice" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner is not sure what reservoir the applicant is referring to in line 5 of the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected, as well as understood, under 35 U.S.C. 102(b) as being anticipated by Conklin (3,713,585)

Conklin shows a device for ejecting soap from a showerhead including a means to mix (13) water from the shower with a predetermined amount of soap.

Claim 28 is rejected, as well as understood, under 35 U.S.C. 102(b) as being anticipated by Karp (4,189,100).

Karp shows a shower device for ejecting soap from a showerhead including a means to mix (10) water from the shower with a predetermined amount of soap. The device including a hopper (16) connected directly to the reservoir (10) so that the contents of the hopper can be mixed together with air.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin (3,713,585) in view of Karp (4,189,100).

Conklin shows a device for ejecting soap from a showerhead including a means to mix (13) water from the shower with a predetermined amount of soap, including one

or more reservoirs (16, 17), pushbutton controls (22) to deliver the soap from the reservoirs (16,17), and a mixing reservoir (13), through an output pipe (19), where soap, air and water are mixed together before they are ejected. Conklin however does not show a means to intake air into the mixing reservoir by a further pipe connected to an upper hopper. However, Karp shows an upper hopper (16) that is connected to a mixing chamber (10) on a showerhead, by a pipe (12). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to add the upper hopper and the connection pipe of Karp to the showerhead apparatus of Conklin and have it feed directly into the mixing reservoir (13). This would provide Conklin's showerhead apparatus with a quick fill option for adding small amounts of different types of soap to the water.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kemp (2,507,410) shows a venture suction device with a rotating switch. Stucky et al (3,612,355) shows a multi container shower soap dispenser. Chih (6,402,053) shows a dispenser with a rotating switch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571) 272-2708. The examiner can normally be reached on 7:30 - 5:00 m-f, first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Scherbel can be reached on (571) 272-4919. The fax phone

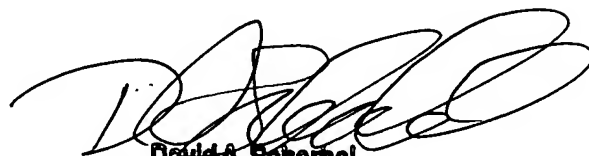
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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JJB JJB

1-5-06



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